

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

KEVIN MARK MCFARLAND,

Case No. 6:19-cv-01066-MK
ORDER

Plaintiff,

v.

STATE OF OREGON; COUNTY OF LANE;
LANE COUNTY CIRCUIT COURT; The
Honorable DEBRA VOGT; The Honorable
CURTIS CONOVER; LANE COUNTY
DISTRICT ATTORNEY; LANE COUNTY
SHERIFF,

Defendants,

AIKEN, District Judge.

Magistrate Judge Mustafa Kasubhai has filed his Findings and Recommendations (“F&R”) (Doc. 47) recommending that defendants’ Motions to Dismiss (Docs. 35-36) should be denied. This matter is now before me. *See* 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).

No objections were timely filed. Although this relieves me of my obligation to perform a *de novo* review, I retain the obligation to “make an informed, final decision.” *Britt v. Simi Valley Unified Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983), *overruled*

on other grounds, *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121–22 (9th Cir. 2003) (en banc). The Magistrates Act does not specify a standard of review in cases where no objections are filed. *Ray v. Astrue*, 2012 WL 1598239, *1 (D. Or. May 7, 2012). Following the recommendation of the Rules Advisory Committee, the Court review the F&R for “clear error on the face of the record[.]” Fed. R. Civ. P. 72 advisory committee’s note (1983) (citing *Campbell v. United States District Court*, 501 F.2d 196, 206 (9th Cir. 1974)); *see also United States v. Vonn*, 535 U.S. 55, 64 n.6 (2002) (stating that, “[i]n the absence of a clear legislative mandate, the Advisory Committee Notes provide a reliable source of insight into the meaning of” a federal rule).

The Court finds no clear error in Magistrate Judge Kasubhai’s F&R. Accordingly, the Court adopts the F&R (Doc. 47) in its entirety. Defendants’ Motion to Dismiss (Doc. 35) is DENIED. Defendant’s second Motion to Dismiss (Doc. 36) is also DENIED, but defendants are granted to leave to refile upon failure of service within 30 days of this order.

IT IS SO ORDERED.

Dated this 8th day of September 2020.

/s/Ann Aiken
Ann Aiken
United States District Judge